IN THE HIGH COURT OF UTTARANCHAL AT NANITAL
WRIT PETITION NO. 7258 (SS) OF 2001

Smt. Darshan Devi

Wife of late Shola Lal Chaudhary,

Resident of Village – Bhelda Bara,

P.O. Danda Mandi,

District – Pauri Garhwal. .....Petitioner.

Versus

1. Deputy Secretary Government of West Bengal, (Finance) Department Audit Branch (Pension Cell) Hementa Bhawan, 128.B.D. Bag, East Calcutta-700001
2. Inspector General of Police West Bengal, Calcutta.
3. Accountant General (A & E)
   West Bengal Calcutta.
4. Director of Pension, West Bengal, Writer Building Calcutta. .....Respondents.

Sri S.K. Posti, Advocate for the petitioner.

22.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to pay the family pension to the petitioner with effect from 09.02.1983.

Brief facts giving rise to the present writ petition are that the husband of the petitioner namely late Sri Bhola Lal Chaudhary was a constable in the Calcutta Police and he retired from service on 20.03.1939. When late Sri Bhola Lal Chaudary

retired, he was working in Hawara District on the post of Constable and after retirement late Sri Bhola Lal Chaudary was regularly getting his pension from the State of West Bengal through Accountant General (A & E) West Bengal and drawing his pension from the Treasury Office, Kotdwara, District Garhwal and his P.P.O. No. was P/631 dated 09.08.1939.

The husband of the petitioner late Sri Bhola Lal Chaudhary died on 08.02.1983 as a natural death and he withdrew his pension up to January, 1983.

After the death of her husband, the petitioner made a representation regarding payment of family pension and issue the new family pension patta.

On 04.05.1998, the petitioner again made a representation to the Inspector General of Police West Bangal, Calcutta and submitted that her husband Constable late Bhola Lal Chaudhary retired from his service on 20.03.1939 and died due to natural death on 08.03.1983. At the time of his death, he was drawing his pension from the Treasury Kotdwara (Garhwal) and last pension was drawn up to 1983 and last payment was made his on 07.02.1983.

The petitioner has further submitted that there is no other source of income after the death of her husband.

On 13th August, 1980 again officer of the office of Accountant General wrote a letter to the Secretary West Bengal to the following effect:-

"Sub:-- Grant of Ad hoc Family Pension to Smt. Darshani Devi.

Sir,

I am to forward herewith an application dated 15.-7-90 and all other papers received from the above named widow and to request you to take necessary action at your end."

When nothing was heard then again, the petitioner made a representation to the Inspector General of Police, West Bengal Calcutta regarding family pension and the petitioner was advised to apply afresh.

The petitioner has submitted all the documents and made several representations, but nothing has been heard. The petitioner has claimed the arrears to family pension w.e.f. February, 1983 with interest at the rate of 18% per annum.

A counter affidavit has been filed by the respondent no. 3, where in paragraph 5 and 6, it has been stated to the following effect:-

"(5) That the office of the Accountant General, (A & E) West Bengal forwarded letter of the petitioner to the Secretary, Government of West Bengal, Finance Department for taking the appropriate action on the application of the petitioner, as in terms of G.O. dtd. 13.08.81, the sanction of the Ad-hoc Family Pension will be issued by the Finance Department and thereafter will forward the same to Accountant General, West Bengal for issuing necessary authority for the payment of Ad-hoc Family Pension.

(6) That it may be submitted here that application dated 15.07.1990 of Smt. Darshani Devi was received by the office of the Answerign Respondent for the sanction of Family Pension since the death of her husband Sri Bholalal Chaudhary, who was a Constable of Calcutta Police and was in receipt of pension from Kotdwara Treasury, District Pauri Garhwal, in terms of P.P.O. No. –P/631 dtd. 9.08.39. The application of Smt. Darshani Devi alongwith the other connected papers/documents were forwarded by the office of Answering Respondent to the Secretary, Finance Department, Audit Bench, Writers Building, Calcutta for the necessary

action letter no. PEN-VI/Ad-hoc/8/5350dtd. 31.8.90. As mentioned above that the sanctioning authority of Ad-hoc Family Pension is Finance Department (Pension Cell) Audit Bench, Government of West Bengal, but no sanction for Ad-hoc Family Pension in favour of Smt. Darshani Devi has been received as yet from the Finance Department by the office of Answering Respondent. In absence of requisite sanction /papers/documents, the Accountant General, (A&E), West Bengal is not in a position to redress the grievances of the petitioner. However, it may be submitted here that the Accountant General (A & E) West Bengal assures this Hon'ble Court that he will take immediate action after receiving requisite sanction from the Finance Department, Govt. of West Bengal."

Thus the liability of granting family pension is no more in doubt. A memorandum of the Government of West Bengal issued on 13th August, 1989 for the grant of ad hoc pension is also mentioned in the G.O. to the following effect:-

"Subject: Grant of ad-hoc family pension to widows of State Government employees who retired prior to 1st April, 1965.

The Family Pension Scheme has been introduced by the State Government with effect from April 1st, 1965. The widows of Government employees who retired prior to 1.4.1965 and died subsequently are not entitled to family pension under the said scheme.

2. The Government of West Bengla have for some time past been considering the question of granting some financial assistance to such widows of State Government employes who at present are not in receipt of any kind of pension from the Government, provided that if anybody otherwise eligible to get this pension be now in receipt of Widow/Old Age Pension of Rs. 30/-p.m. under he scheme for such pension sanctioned by the Relief & Welfare Department may apply for his pension and she will be sanctioned this pension in lieu of the existing

widow/Old Age Pension of the Relief & Welfare Department if she is otherwise eligible.

3. After careful consideration of the matter, the Governor has been pleased to decide that the widows of State Government employees who retired prior to the 1st April, 1965 i.e. the date of the introduction of the Family Pension Scheme will be granted an ad-hoc lump sum family pension of Rs. 100/- (Rupees one hundred) only per month with effect from 1st April, 1981 irrespective of the pay drawn, provided that this pension will not be admissible in those cases where the widows were alive on 1st April, 1981 but died subsequently before they could apply for the pension.

4. For the purpose of this ad-hoc family pension the widow who reside in the districts other than Calcutta, 24-Parganas and Howrah will have to apply to the respective District Magistrates in the form as at Annexure 'A' along with a certificate in the in the form as at Annexure 'B' to this Memorandum from the respective Head of the Office from which the deceased Government employee concern3ed retired or from any Gazetted Central Government Officer/State Government Officer belonging to Group 'A' service. The sanction of ad-hoc family pension in their case will be issued by the respective District magistrates concerned to the Accountant-General, West Bengal. The Widows who reside in Calcutta and in the districts of 24-Parganas and Howrah will have to apply to the Deputy Secretary Finance Department (Pension Cell), Audit Branch, Writers Buildings, 1st Floor, Calcutta-700 001, in the form at Annexure 'A' along with the certificate in the form as at Annexure 'B' to this order. The sanction of ad-hoc family pension in their cases will be issued by the Finance Department. The Accountant General, West Bengal will issue Pension payment Order for payment of ad-hoc family pension as in the normal pension cases.

5. This ad-hoc family pension will not be admissible to the widows who are in receipt of any kind of pension whatsoever from any Government.

6. The payment of ad-hoc family pension will be made in the same manner as normal pension is paid to retired Government employees."

Since the petitioner has fulfilled all the qualifications and is not getting pension from any other source and as such she is entitled for the grant to family pension.

In view of the aforesaid facts and circumstances, the respondents are directed to consider the claim of the petitioner within a period of three weeks in accordance with law and pay

the same forthwith. After sanctioning the pension, the respondents shall forthwith send the papers for grant of ad hoc pension at Treasury, Kotdwar.

Consequently, writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

22.02.2006

Rathour